

REMARKS

Claims 39 and 40 are pending in this application. Applicants acknowledge the Examiner's withdrawal of the previous objections to applicants' priority statement and specification. Applicants also acknowledge the withdrawal of the rejections of claims 39 and 40 under 35 U.S.C. §112, second paragraph, and 35 U.S.C §102 (b).

The Final Office Action rejects claims 39 and 40 under 35 U.S.C §112, second paragraph. Applicants address this rejection below.

Information Disclosure Statement (IDS)

Applicants have not yet received an initialed copy of the IDS Form 1449 that was filed February 5, 2002, along with the present application. Applicants request that the Examiner confirm that these references have been considered by returning an initialed copy of the Form to applicants as soon as possible.

35 U.S.C § 112, Second Paragraph

Claims 39 and 40 were rejected as allegedly indefinite. Applicants respectfully traverse this rejection for the reasons discussed below.

According to the Office Action (at page 3, item 10):

Step b of the method recites 'detecting binding of the test compound with S-yneS polypeptide, wherein binding indicates that the test compound is a candidate antibacterial agent'. This is not clear. Is [sic] this mean that any compound which binds to this polypeptide is Antibacterial? How can one determine the bacterial agent? It appears that some steps are missing from this recitation.

Applicants submit that the language of claims 39 and 40 is clear. These claims recite compositions that include an antibacterial agent that specifically binds to an S-yneS polypeptide, which is an essential polypeptide. The claims also recite methods by which the antibacterial agent is identified as potentially (in the case of claim 39) or definitely (in the case of claim 40) possessing antibacterial activity.

Specifically, parts (a) and (b) of claim 39 recite a two-step method by which the recited antibacterial agent is identified as an agent that potentially possesses antibacterial activity (i.e., a candidate antibacterial agent). The method includes (a) contacting an S-yneS polypeptide with a test compound; and (b) detecting binding of the test compound with the S-yneS polypeptide. Binding between the test compound and the S-yneS polypeptide indicates that the compound is a candidate antibacterial agent. As the specification indicates (e.g., at page 4, line 30, to page 5, line 7, and at page 37, lines 3 to 8), such candidate agents can be, but do not necessarily have to be, tested using conventional assays to determine whether the agent is capable of inhibiting bacterial growth.

Claim 40 recites a three-step method by which the recited antibacterial agent is identified as an agent capable of inhibiting the growth of bacteria. The method includes (a) contacting an S-yneS polypeptide with a test compound; (b) detecting binding of the test compound with the S-yneS polypeptide, wherein binding indicates that the test compound is a candidate to be an antibacterial agent; and (c) determining whether the candidate antibacterial agent inhibits growth of bacteria. In this method, inhibition of growth indicates that the candidate antibacterial agent is an antibacterial agent.

Thus, to answer the question quoted above from the Office Action, the language recited in part (b) of both claims does not necessarily mean that any compound that binds the S-yneS polypeptide is an antibacterial compound. Rather, the language of part (b) of these claims makes clear that a compound capable of binding this essential polypeptide is a candidate antibacterial agent. With respect to claim 39, such a candidate antibacterial agent may or may not be tested further to investigate the agent's antibacterial properties. With respect to claim 40, a candidate antibacterial agent is further tested to confirm the agent's antibacterial properties.

For the reasons discussed above, applicants submit that the language recited in claims 39 and 40 is clear and definite. Accordingly, applicants respectfully request that the present rejection be reconsidered and withdrawn.

Applicant : Christian Fritz et al.
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CONCLUSION

Applicants ask that all claims be allowed. No fees are believed due at this time.
However, please apply any charges or credits to Deposit Account No. 06-1050, referencing
Attorney Docket No. 15132-090002.

Respectfully submitted,

Date: 11-26-03



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